

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AARON J. THOMAS,

Defendant.

No. 01-30125-DRH

ORDER

HERNDON, Chief Judge:

On March 14, 2008, Aaron J. Thomas filed a motion for retroactive application of sentencing guidelines to crack cocaine offenses pursuant to **18 U.S.C. § 3582** (Doc. 54). The Court appointed counsel to represent Thomas on this issue, and counsel has now moved to withdraw on the basis that he can make no non-frivolous arguments in support of a reduction pursuant to **18 U.S.C. § 3582 (c)** (Doc. 71). ***See Anders v. California, 386 U.S. 738, 744 (1967)***. Thomas did not respond to the motion to withdraw, even though he was given an opportunity to do so (Doc. 72).

On January 17, 2003 Thomas was sentenced by this Court to a term of 70 months of imprisonment (Doc. 34). As part of this sentence, Thomas was ordered to serve four years on supervised release following his release from the Bureau of Prisons. His supervision commenced on December 1, 2006, but six months later, the Government petitioned the Court to revoke his supervised release (Doc. 39). After a hearing on the petition to revoke on July 12, 2007 (Doc. 50),

Thomas was sentenced to a 12 month and 1 day term of imprisonment (Doc. 51).

Because Thomas has already served his original prison sentence, he is not entitled to a sentence reduction. **See *United States v. Forman*, 553 F.3d 585, 588-89 (7th Cir. 2009), cert. denied sub nom *McKnight v. United States*, 129 S.Ct. 1924 (2009).** As the Seventh Circuit noted in ***Forman***, Application Note 4(A) to United States Sentencing Guidelines § 1B1.10 anticipates and forecloses an argument that a term of imprisonment imposed after revocation of supervised release can be reduced following the crack cocaine amendment: “This section does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release.” ***Id.* at 589.**

The Court therefore **GRANTS** counsel’s motion to withdraw (Doc. 71) and **DISMISSES for lack of jurisdiction** the motion request for reduction of sentence (Doc. 54)

IT IS SO ORDERED.

Signed this 30 day of March, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Court**